

145

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

PHILIP WHITE and
PATRICIA WHITE

Case No. 89-12820 K

Debtors

ORDER GRANTING CLAIMS OBJECTION IN PART
AND DENYING THEM IN PART

The matter of the effect of repossession and sale on the secured claims has been addressed in a separate decision (so that that holding alone may be submitted for publication). Claims 14, 15 and 21 must be deemed "paid" to the extent of \$35,000. Any balance of those claims is "unsecured."

Claims #15 and 21 are included because here I hold that the Debtors may not ignore the filed claims, the Motion to Allow Claims, the Order Allowing Claims¹ and the letter from the Chapter 13 Trustee explaining the significance thereof, and then several years later seek reconsideration of the claims.

Even though a timely objection to Claim #20 as a "secured" claim might have been sustained, no objection was made, and payments made on that claim were not "overpayments" prior to

¹The Order Allowing Claims, served by mail on Debtors and their former counsel contains the following provision: "ORDERED ... that the debtor(s) be given thirty days from the date of this order [May 11, 1990] within which to examine the proofs of claim and to file a written objection to any claim which may be improper. The absence of a timely written objection will be deemed an approval by the debtor(s) of the claims as recited above."

the date of the sale of the alleged "collateral."

The same is true of Claim #22 even though it was a duplicate claim.

By filing claim # 6, the creditor submitted that portion of the post-petition lot rents to the 5% provisions of the plan, and it is so bound: 95% will be subject to discharge. Other post-petition lot rents are post-confirmation obligations not so submitted, and survive the Chapter 13 discharge.

This matter is restored to the Niagara Falls calendar on July 14, 1994 at 10:30 a.m., in the Special Term Courtroom, Niagara County Courthouse, 3rd Street and Cedar Avenue, Niagara Falls, New York, to address any remaining matters.

SO ORDERED.

Dated: Buffalo, New York
June ~~24~~, 1994

27



U.S.B.J.